IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

WP(C).No. 7504 of 2007(R)

PETITIONER:

SMT.PHILLIA JOY,
MANAGING PARTNER,
M/S.FREEZING POINT,
ERAMALLOOR P.O.
ALAPPUZHA.

BY ADV. SRI.M.A.MANHU
SRI.M.A.FAYAZ

RESPONDENTS:

1. THE KERALA FINANCIAL CORPORATION LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR,
THIRUVANANTHAPURAM.

2. THE KERALA FINANCIAL CORPORATION
ALAPPUZHA BRANCH OFFICE, KUMARANASSAN SMARAKA
BUILDING, COURT ROAD, ALAPPUZHA,
REPRESENTED BY THE BRANCH MANGER,K.F.C.

3. THE DEPUTY TAHSILDAR(RR),
KERALA FINANCIAL CORPORATION,
ALAPPUZHA.

ADDL.R4. THE STATE OF KERALA REPRESENTED BY THE
CHIEF SECRETARY, SECRETARIATE, TRIVANDRUM.

ADDL.R4 IS IMPLEADED AS PER ORDER ON I.A.NO.5495/2007 DATED 12.4.2007.

BY STANDING COUNSEL FOR KFC SRI.V.B.UNNIRAJ.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.7504 OF 2007)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of letter dtd.31.1.2005 issued by K.F.C.

Ext.P2: Copy of receipt dtd.23.3.2005 issued by K.F.C.

Ext.P2(a): Copy of receipt dtd.4.11.2005 issued by K.F.C.

Ext.P2(b): Copy of receipt dtd.19.1.2006 issued by K.F.C.

Ext.P2(c): Copy of receipt dtd.1.3.2006 issued by K.F.C.

Ext.P2(d): Copy of receipt dtd.27.3.2006 issued by K.F.C.

Ext.P2(e): Copy of receipt dtd.30.6.2006 issued by K.F.C.

Ext.P2(f): Copy of receipt dtd.27.11.2006 issued by K.F.C.

Ext.P3: Copy of letter dtd.22.2.2007 issued by K.F.C.

Ext.P4: Copy of the Judgment dtd.20.9.2006 in W.P(C) No.21707/2006.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) NO.7504 OF 2007 - R

Dated this the 12th day of April, 2007

J U D G M E N T

Heard learned counsel for the petitioner, the learned Standing Counsel for the Kerala Financial Corporation and the learned Government Pleader.

2. The petitioner challenges Ext.P3 order by which the Kerala Financial Corporation has directed the petitioner to pay collection charges for releasing the documents of title relating to the property mortgaged to the Kerala Financial Corporation as security for the loan amounts taken by the petitioner. The petitioner has, by availing of the one time settlement facility extended by the Kerala Financial Corporation, paid all the amounts due to the Corporation directly and closed the loan account. However, the title deeds of the mortgaged property are not being released to the petitioner on the ground that the petitioner is liable to pay collection charges also to the Government. The first and second respondents have no case that the amounts due from the petitioner were paid to

the revenue authorities by resorting to proceedings under the Revenue Recovery Act. On the other hand, the admitted factual position is that by availing of benefits of one time settlement scheme, the petitioner paid the amounts directly to the Kerala Financial Corporation. That being so, there is no justification for demanding any collection charges from the petitioner, which is due to the State, only if the State machinery is used for collecting amounts in default. In fact, in a similar writ petition W.P.(C) No.21707 of 2006, relying on the decision of this Court reported in **Bhaskaran** v. **Sub Registrar** (2005(3) KLT 150) as well as that of the Division Bench in W.A.No.1350 of 2006, I directed the Kerala Financial Corporation to release the title deeds of similarly situated borrower holding that in such circumstances, no collection charges would be payable to the State.

3. Following the same, I allow this writ petition and quash Ext.P3 order. I further direct the Kerala Financial Corporation to release the title deeds of the

mortgaged property of the petitioner, immediately on production of a certified copy of this judgment.

Sd/-
S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:13-02-2007